



DEPARTMENT OF ENVIRONMENTAL PROTECTION
Monthly Enforcement Report
for actions during August 2008
DISTRIBUTED: September 8, 2008

This report has been prepared to satisfy a statutory obligation DEP has to inform the public of certain enforcement resolutions. Please contact Peter Carney at (207) 287-4305 or Peter.J.Carney@Maine.gov for additional information regarding the activities listed in this report. The full text of most Administrative Consent Agreements is available on the Board of Environmental Protection's website at <http://www.maine.gov/dep/bep/agenda.htm>. If you are receiving this report via regular mail, but would prefer to receive an electronic version please send an email to the above address with your contact information.

The following cases were resolved to achieve compliance with the law; remediate environmental damage; restore natural resources to appropriate conditions; and impose civil penalties to deter similar actions in the future.

Administrative Consent Agreements Approved by the Board of Environmental Protection and Office of the Attorney General (party followed by location):

Hazardous Waste:

Wyman & Simpson, Inc., Richmond, Maine. Wyman & Simpson, Inc. ("Wyman") violated provisions of the *Maine Hazardous Waste, Septage and Solid Waste Management Act* and the Department's rules concerning *Identification of Hazardous Wastes, Standards for Generators of Hazardous Waste, Land Disposal Restrictions, Licensing of Transporters of Hazardous Waste, and Hazardous Waste Manifest Requirements*. Specifically, Wyman failed to determine if wastes generated were hazardous, failed to mark containers of hazardous waste with accumulation start dates and the words "Hazardous Waste," disposed of hazardous waste without a license to do so, failed to store hazardous waste on a firm working surface constructed to prevent spillage from leaving the area, failed to store hazardous waste in containers free of rust or leaks, failed to conduct and document daily inspections of hazardous waste containers, and failed to retain hazardous waste manifests and land disposal restriction forms for manifested hazardous waste for a period of three years, transported hazardous waste without a Department-issued transporter license, failed to mark containers of universal waste with the type of waste and the accumulation start date, failed to store universal waste in containers, failed to have required signage for a universal waste storage area, and failed to train employees who handle or manage universal waste on handling and emergency procedures. Following Department involvement, Wyman submitted a written response to the Department indicating 3,578 pounds of hazardous waste had been inventoried and removed and contaminated waste oil was sampled, characterized, and removed. In addition, Wyman submitted copies of hazardous waste manifests and hired an environmental consultant to conduct hazardous and universal waste training and to develop waste compliance manuals for the company. To resolve the violations, Wyman paid \$10,950 as a civil monetary penalty.

Land:

Charles Craig, Etna, Maine. Charles Craig ("Craig") violated provisions of Maine's *Natural Resources Protection Act* by dredging and filling in a freshwater wetland without first obtaining a permit from the Department and Maine's *Erosion and Sedimentation Control* law by conducting or causing to be conducted an activity that involves filling, displacing, or exposing soil without taking measures to control the erosion of soil or sediment beyond the project site or into a protected natural resource. Specifically, Craig excavated a wetland to create a pond and placed the dredged spoils in the wetland to create berms. At the time of the Department's inspection, no erosion controls were observed on the site. Following Department involvement, Craig temporarily seeded and mulched disturbed soils on the site. To resolve the violations, Craig agreed to submit a restoration plan for the wetland, attend a Department Nonpoint Source Training Center Workshop focusing on erosion and sedimentation control devices and best management practices, and paid \$2,000 as a civil monetary penalty.

Kenneth Penney and Linda Penney, Sidney, Maine. Kenneth Penney and Linda Penney ("the Penneys") violated provisions of Maine's *Natural Resources Protection Act* by displacing soil and removing vegetation adjacent to a



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protected natural resource without first obtaining a permit from the Department and Maine's *Erosion and Sedimentation Control* law by conducting or causing to be conducted an activity that involves filling, displacing, or exposing soil without taking measures to control the erosion of soil or sediment beyond the project site or into a protected natural resource. Specifically, the Penneys excavated a forty foot long trench, six feet wide, and up to twelve feet deep, in the bank of the Kennebec River to provide access to the river. At the time of the Department's inspection, no erosion controls were installed on the site. Following Department involvement, the Penneys submitted a restoration plan and after-the-fact permit by rule notification for the restoration of the riverbank and completed a substantial portion of the restoration. To resolve the violations, the Penneys agreed to complete the restoration of the riverbank and paid \$3,000 as a civil monetary penalty.

Dennis Sullivan and Donna Sullivan, Harrison, Maine. Dennis Sullivan and Donna Sullivan ("the Sullivans") violated Maine's *Natural Resources Protection Act* by placing fill in a freshwater wetland, filling adjacent to a great pond, and constructing a permanent structure in, on or over a great pond, without first obtaining permits from the Department. Specifically, the Sullivans placed fill in a twenty by twenty four foot area that included freshwater wetlands adjacent to Long Lake, placed rock along the shore of the lake, installed a 12.5 by 23.5 foot permanent deck over the lake, and added fill material to a six foot wide path leading to the fill area. Following Department involvement, the Sullivans removed the deck. To resolve the violations, the Sullivans agreed to remove all fill and rocks in and adjacent to the lake, reestablish vegetation to pre-existing conditions, and paid \$1,530 as a civil monetary penalty.

Mining:

City of Augusta, Augusta, Maine. The City of Augusta violated provisions of Maine's *Performance Standards for Excavations* by expanding a gravel pit by more than five acres since 1970 without first filing a Notice of Intent to Comply pursuant to the *Performance Standards for Excavations* with the Department. Following Department involvement, the City of Augusta submitted a Notice of Intent to Comply which was approved by the Department. To resolve the violation, the City of Augusta paid a civil monetary penalty of \$4,988. The City paid \$996 to the State and the remaining balance of \$3,992 was mitigated by the City's completion of Supplemental Environmental Project ("SEP") that involved stabilization of an unstable slope along Bond Brook in Augusta. The City of Augusta's cost of completing the SEP project exceeded \$3,992.

Leon G. Cliff, H.E. Cliff & Sons, Levant, Maine. Leon G. Cliff and H.E. Cliff & Sons (collectively "Cliff") violated provisions of Maine's *Performance Standards for Excavations* by operating a gravel pit that drains externally without first obtaining a variance from the Department. Following Department involvement, Cliff submitted a restoration plan to the Department to reclaim the gravel pit, which was approved by the Department. To resolve the violation, Cliff agreed to complete reclamation of the pit in accordance with the approved restoration plan and paid \$1,500 as a civil monetary penalty.

Water:

Town of Rumford, Rumford and Mexico, Maine. The Town of Rumford violated provisions of Maine's *Water Pollution Control* laws by dumping snow into and/or adjacent to the Androscoggin River and an associated tributary without first obtaining a license from the Department. These sites did not qualify for an exemption from Department licensing requirements because the snow dumps did not meet the exemption requirements found in the



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Department's rule, *Snow Dumps: Exemption from Waste Discharge License*. To resolve the violations, the Town agreed to cease the unlicensed discharge of pollutants from snow dump activities, implement a Department-approved means for disposing of Rumford's snow, and paid \$5,500 as a civil monetary penalty.

District Court Enforcement Resolutions (party followed by location):

Oil:

State of Maine, Maine Department of Environmental Protection v. Butler, Maxcy & Heath, Inc., Rockland, Warren, and Washington, Maine. Butler, Maxcy & Heath, Inc. violated provisions of Maine's *Oil Discharge Prevention and Pollution Control* laws and *Underground Oil Storage Facilities and Ground Water Protection* laws by causing the prohibited discharge of oil and failing to immediately undertake to remove the discharge. Butler, Maxcy & Heath, Inc. overfilled aboveground oil storage tanks on four occasions causing a prohibited discharge of oil in each instance, failed to immediately undertake to remove the discharges as required by Maine statute, and failed to reimburse the Department for expenses it incurred to clean-up one of the spills. To resolve the violations, the Department and Butler, Maxcy & Heath, Inc. agreed to the court's entry of an order requiring Butler, Maxcy & Heath, Inc. to: submit for Department review and approval a written operating procedure for spill reporting and emergency response to be distributed to Butler, Maxcy & Heath, Inc. employees; report all prohibited discharges of oil in the future; immediately undertake to remove prohibited discharges of oil in the future; reimburse the Department for clean-up expenses; pay a civil monetary penalty of \$16,000; and pay an additional civil monetary penalty of \$16,000 if Butler, Maxcy & Heath, Inc. violates any provision of the court's order within five years.